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PAGE 01 CARACA 07083 01 OF 03 291149Z

50

ACTION DLOS-07

INFO OCT-01 ARA-16 IO-14 ISO-00 OIC-04 CIAE-00 DODE-00

PM-07 H-03 INR-11 L-03 NSAE-00 NSC-07 PA-04 RSC-01

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EPA-04 NSF-04 SCI-06 AEC-11 CIEP-03 CEA-02 JUSE-00

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C O N F I D E N T I A L SECTION 1 OF 3 CARACAS 7083

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FROM USDEL LOS

E.O. 11652: GDS

TAGS: PLOS

SUBJ: LOS: WEEKLY ANALYTICAL SUMMARY REPORT JULY 19-25

1. SUMMARY: AT THE END OF THE FIFTH WEEK OF THE CONFERENCE AND SECOND WEEK OF SUBSTANTIVE WORK IN COMMITTEES, SENSE OF DRIFT AND LACK OF FIRM PURPOSE CONTRIBUTED TO INABILITY TO BRIDGE GAP BETWEEN CONSENSUS ON GENERAL OUTLINES AND NEED FOR NEGOTIATIONS ON SPECIFIC TEXTS TO ESTABLISH RIGHTS AND DUTIES OF STATES ESPECIALLY WITH RESPECT TO NATURE OF ECONOMIC ZONE, AND EXTENT OF CONTROL OF SEABED AUTHORITY. IN RESULTING VACUUM A FEW EXTREMIST STATES HAVE MANAGED VIRTUALLY TO STALL CONFERENCE WITH RENEWED EMPHASIS ON 200 MILE SOVEREIGNTY, ALLEGATIONS THAT US PROPOSED EXCEPTIONS AND COASTAL STATE DUTIES GUT ECONOMIC ZONE CONCEPT, AND BASIC IDEOLOGICAL

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PAGE 02 CARACA 07083 01 OF 03 291149Z

CONFLICT ON SEABED REGIME BETWEEN THOSE WHO READ "COMMON

HERITAGE" TO MEAN AUTHORITY HAS SOLE RIGHT OF ACCESS TO RESOURCES, AND THOSE INCLUDING US WHICH ASSUME A PRESENTLY EXISTING RIGHT OF ACCESS FOR STATES, TO BE CONTINUED ON A NON-DISCRIMINATORY BASIS UNDER CONDITIONS TO BE AGREED UPON. MAJOR BRIGHT SPOT IS CLEAR SHIFT IN OUR DIRECTION ON STRAITS. END SUMMARY.

2. ANALYSIS OF SITUATION AT MID-POINT IN NEGOTIATION: THE REASONS FOR LACK OF SUBSTANTIVE PROGRESS ARE COMPLEX. IN GENERAL, THE WIDESPREAD DESIRE TO NEGOTIATE HAS NOT OVERTAKEN THE RESTRAINTS OF GROUP POLITICS.

A. TACTICAL INTER-RELATIONSHIP OF WORK IN DIFFERENT COMMITTEES IS CAUSING A LOG-JAM. FOR EXAMPLE, CHILE MADE STATEMENT IN INFORMAL DEEP SEABED CONSULTATIONS TO THE EFFECT THAT IF THERE IS NO AGREEMENT IN COMMITTEE 2, MEANING OF COURSE ECONOMIC ZONE, THERE COULD BE NO PROGRESS IN COMMITTEE 1. IMPLICATION WAS THAT WHILE NEGOTIATIONS ON POSITIONS WERE POSSIBLE ON SEABED REGIME NONE WOULD TAKE PLACE UNTIL THERE IS SATISFACTORY PROGRESS ON ECONOMIC ZONE ISSUE. SOME TACTICS SURFACING IN COMMITTEE 3 WHERE OUTCOME OF POLLUTION AND SCIENTIFIC RESEARCH QUESTIONS TIED TO RESOLUTION OF JURISDICTIONAL CONTENT OF ECONOMIC ZONE. AT SOME TIME, FAILURE TO RESOLVE VESSEL-SOURCE POLLUTION QUESTION IN COMMITTEE 3 IS STIMULATING HARD-LINE CANADIAN AND AUSTRALIAN TACTICS TOWARD MARITIME POWERS IN COMMITTEE 2.

B. THE AFRICANS ARE STALEMATED BY THE COASTAL-LANDLOCKED SPLIT, WITH THE COASTAL STATES RUNNING IN EVER MORE EXTREME DIRECTIONS AS A REACTION TO LANDLOCKED DEMANDS. THIS EXTREMISM OF COURSE BRINGS THEM INTO COLLISION WITH THE MARITIME POWERS. AT THE SAME TIME, SINCE THE OAU DECLARATION IS THEIR ONLY COMMON-DENOMINATOR, VIRTUALLY NONE OF THEM FEEL FREE TO MOVE VERY FAR FROM IT.

C. THE GROUP OF COASTAL STATES HAS HAD A HARD TIME AGREEING ON A COMMON PROPOSAL IN PART BECAUSE OF DIFFERENCES OF VIEW ON THE CONTINENTAL MARGIN. THEIR ULTIMATE WORK PRODUCT IS A SKETCHY OUTLINE OF COASTAL STATE RIGHTS.

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PAGE 03 CARACA 07083 01 OF 03 291149Z

D. WHILE THE AFRICANS SHOW INCREASING SIGNS OF SOME MOTIVATION TO COMPROMISE ON THE DEEP SEABEDS, THE LATINS LED BY PERU, ARE QUICK TO SQUELCH ANY ADVANCES IN OUR DIRECTION. THERE ARE SIGNS THAT A LATIN-AFRICAN CONFRONTATION OVER ATTITUDES TOWARD THE US MAY BE IN THE WORKS, BUT THIS MAY BE DEPENDENT ON OUR ABILITY TO MAINTAIN A REASONABLE IMAGE.

E. MANY COASTAL STATES STILL FEAR THAT THE SOVIET FISHING

CONCESSION OF A 200 MILE ECONOMIC ZONE IS MORE APPARENT THAN REAL. CONSERVATIVE INTERPRETATIONS OF THEIR NEW POLICY BY SOVIET FISHERIES EXPERTS, MAY BE WATERING DOWN THE POLITICAL IMPACT OF THEIR MOVE.

F. STATES FAVORING COASTAL STATE JURISDICTION OVER VESSEL-SOURCE POLLUTION BEYOND THE TERRITORIAL SEA, PARTICULARLY CANADA, ARE FEARFUL THAT AGREEMENT ON RESOURCES IN THE ECONOMIC ZONE, IF UNACCOMPANIED BY AGREEMENT ON POLLUTION, WILL PREJUDICE THEIR NEGOTIATING POSITION. ACCORDINGLY, THEY ARE FEEDING THE LANDLOCKED-INSPIRED EXTREMISM OF THE AFRICAN COASTAL STATES BY EMPHASIZING THAT THE ECONOMIC ZONE IS NOT MERELY A RESOURCE ZONE, BUT MUCH MORE.

G. THE CONSERVATISM OF FRANCE AND PARTICULARLY JAPAN ON FISHERIES FEEDS THE CHARGES THAT THE MARITIME POWERS ARE NOT REALLY INTERESTED IN ACCOMMODATING COASTAL STATE DEMANDS FOR FISHERIES JURISDICTION.

H. SOPHISTICATED LATINS AND OTHER COASTAL STATES MAY BE WAITING FOR THE US TO DECLARE A UNILATERAL 200-MILE ZONE, THUS ELIMINATING OR WEAKENING THOSE ASPECTS OF THE US FISHERIES POSITION THEY FIND UNPALATABLE (E.G., SPECIAL TREATMENT FOR TUNA AND POSSIBLY FULL UTILIZATION). CORRIDOR DISCUSSION OF THE "MAGNUSON BILL" (US 200 MILE FISHERIES CLAIM) CONTINUES UNABATED.

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PAGE 01 CARACA 07083 02 OF 03 291159Z

53

ACTION DLOS-07

INFO OCT-01 ARA-16 IO-14 ISO-00 OIC-04 CIAE-00 DODE-00

PM-07 H-03 INR-11 L-03 NSAE-00 NSC-07 PA-04 RSC-01

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FROM USDEL LOS

3. COMMITTEE 1, DEEP SEABED REGIME: COMMITTEE 1 MEETING IN INFORMAL SESSION WILL PROCEED TO DEBATE THREE CRITICAL AND RELATED ISSUES: EXPLOITATION SYSTEM, CONDITIONS FOR EXPLOITATION (RULES AND REGULATIONS) AND ECONOMIC IMPLICATIONS. WHILE DISCUSSION OF FIRST SEVERAL DRAFT ARTICLES IN REGIME WAS CHARACTERIZED BY ATTEMPTS FROM ALL SIDES TO MAKE HIGHLY VISIBLE BUT RELATIVELY UNIMPORTANT COMPROMISES, C-1 FINALLY BOGGED DOWN ON THE CENTRAL AND CRITICAL ISSUE OF THE EXPLOITATION SYSTEM. US PROPOSAL FOR AMALGAMATION OF FOUR ALTERNATIVES IN ARTICLE 9, WHICH FOCUSED ON NEED FOR REGULATIONS AND RIGHT OF ACCESS, FORCED COMMITTEE INTO LENGTHY DEBATE WHICH CLEARLY INDICATED LATIN DELS UNWILLINGNESS TO BEGIN SERIOUS NEGOTIATION. AFRICAN DELS WERE APPARENTLY RECEPTIVE TO FRANK DISCUSSION ON HOW EXPLOITATION SYSTEM WOULD WORK, PROVIDED CONCEPTUAL FRAMEWORK IN WHICH DISCUSSION TAKES
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PAGE 02 CARACA 07083 02 OF 03 291159Z

PLACE IS AT LEAST AS APPLICABLE TO ENTERPRISE AS TO LICENSING SYSTEM. AFTER US PROPOSAL, JAMAICA PROPOSED RELATIVELY FORTHCOMING DRAFT ARTICLE ON EXPLOITATION SYSTEM WHICH INCORPORATED IMPORTANT REFERENCES TO CONDITIONS (RULES AND REGULATIONS) AND ECONOMIC ASPECTS. THIS WAS OVERTAKEN BY NEW GROUP OF 77 PROPOSAL ON EXPLOITATION SYSTEM WHICH OMITTS IMPORTANT QUESTION OF RULES AND REGULATIONS. ABILITY OF AFRICAN GROUP TO OBTAIN GROUP OF 77 SPONSORSHIP FOR WHAT IS MORE MODERATE, ALTHOUGH STILL UNACCEPTABLE, PROPOSAL ON EXPLOITATION SYSTEM COUPLED WITH INABILITY OF LATIN DELS TO TOTALLY PRECLUDE DISCUSSION ON CONDITIONS OF EXPLOITATION IS ENCOURAGING SIGN. IT IS POSSIBLE, HOWEVER, THAT FRANK EXPLANATION OF US POSITION ON CRITICAL ISSUES IN APPROACHING DEBATE MAY AFFORD LATINS OPPORTUNITY TO REGAIN CONTROL OF LDC BLOC, SINCE PRIVATE CONVERSATIONS WITH SEVERAL AFRICAN AND ASIAN DELS INDICATE SOME MISUNDERSTANDING OF DEGREE TO WHICH OUR POSITION IS NOW OUT OF MAINSTREAM.

4. COMMITTEE 11 (TERRITORIAL SEA, STRAITS, ECONOMIC ZONE, ETC)

A. CONSIDERATION OF TERRITORIAL SEA, STRAITS, AND CONTIGUOUS

ZONE CONTINUED IN BUSINESSLIKE FASHION ON BASIS SECRETARIAT PAPERS IN FORMAL AND INFORMAL MEETINGS. STRAITS DISCUSSIONS SHOWED MARKED SHIFT IN FAVOR OF "UNIMPEDED PASSAGE" LED BY STRONG PUSH BY EAST EUROPEANS. ARAB STATES ALSO INTERVENING FAVORABLY PROVIDED TIRAN IS NOT INCLUDED, AND IRAQ CRITICIZED UK FOR APPLYING EVEN NON-SUSPENDABLE INNOCENT PASSAGE TO TIRAN. ISRAEL AGUED FOR APPLICATION OF FREE PASSAGE TO ALL STRAITS. US INTERVENTION ON MEANS TO ACCOMMODATE COASTAL STATE CONCERNS REGARDING SECURITY, NAVIGATIONAL SAFETY, AND POLLUTION WELL RECEIVED. WE ALSO RESPONDED STRONGLY TO ARGUMENTS THAT OVER-FLIGHT NEED NOT BE INCLUDED. IRAN MAY RESPOND TO ARAB SHIFT IN FAVOR OF UNIMPEDED PASSAGE BY GRANTING THIS TO VESSELS OF STATES ON A SEMI-ENCLOSED SEA OFF STRAIT, BUT APPLYING INNOCENT PASSAGE TO OTHER VESSELS.

ON NEGATIVE SIDE, WE ARE CONCERNED ABOUT STRAITS STATE TACTIC OF DISTINGUISHING BETWEEN COMMERCIAL AND NAVAL VESSELS, AND WILL BE MAKING STRONG EFFORT TO COUNTER THIS. CONTIGUOUS ZONE DISCUSSION REVEALED CONSIDERABLE SENTIMENT IN FAVOR OF
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PAGE 03 CARACA 07083 02 OF 03 291159Z

RETAINING CLASSIC TERRITORIAL SEA CONVENTION CONTIGUOUS ZONE (FOR CUSTOMS, FISCAL, IMMIGRATION, AND SANITARY PURPOSES BEYOND TERRITORIAL SEA). BREADTH SUGGESTED VARIED FROM 6 MILES (EGYPT) TO 18 MUOES (INDIA) BEYOND 12-MILE TERRITORIAL SEA, WITH SOME (E.G., NIGERIA) FAVORING INCLUSION OF THIS COMPETENCE IN ENTIRE 200-MILE ECONOMIC ZONE. THERE WAS CLEAR IMPLICATION (E.G., INDIA AND NIGERIA) THAT CONTIGUOUS ZONE IS NECESSARY IF STATES ARE NOT TO ADVOCATE, OR ARE TO ROLL BACK FROM, TERRITORIAL SEA BROADER THAN 12 MILES.

B. GROUP OF JURIDICAL EXPERTS (EVENSEN GROUP) CONTINUED EXAMINATION OF ECONOMIC ZONE. LITTLE PROGRESS MADE. PERU ENAGED IN CONSTANT ATTEMPTS TO GET US TO ENUMERATE "OTHER HIGH SEAS FREEDOMS" NOT SUBJECT TO COASTAL STATE JURISDICTION, AND PRESSED US ON SEABED INSTALLATIONS. TANZANIA WAS EXTREMELY HARD LINE, REJECTING EVEN THE MOST NONCOTROVERSIAL EFFORTS AT COMMON TEXTS. THE SO-CALLED "COASTAL STATE GROUP" WAS BUSILY ENGAGED IN COMPLETING THEIR OWN PROPOSAL, AND THUS SHOWED LITTLE ABILITY TO NEGOTIATE. AFRICANS IN GENERAL SEEM UNABLE TO MOVE BECAUSE OF INTERNAL DIVISIONS. HOWEVER, AT LEAST TONE OF MEETINGS IMPROVED AFTER MARITIME POWERS REJECTED COMPREHENSIVE JURISDICTION IN ECONOMIC ZONE AS BASIS OF DISCUSSION. NOW THAT COASTAL STATE PAPER IS COMPLETED, IT IS POSSIBLE SITUATION WILL IMPROVE. AUSTRALIA IS MAKING CONSIDERABLE ATTEMPTS TO HELP US ON SENSITIVE MILITARY-RELATED ISSUES, AND IT IS CLEAR THAT WE WILL HAVE TO RELY TO SOME EXTENT ON THEM AND CANADA TO CARRY THE BALL ON CERTAIN ISSUES WHERE A US INTERVENTION WOULD BE A RED FLAG. IN THIS SENSE, THEIR SUCCESSFUL EFFORTS TO MAINTAIN COASTAL STATE CREDENTIALS,

WHILE PRESENTING US WITH MANY DIFFICULTIES, MAY PROVE QUITE
HELPFUL ON SENSITIVE POINTS.

5. COMMITTEE 111: MARINE POLLUTION AND SCIENTIFIC RESEARCH
A. WORK IN INFORMAL SESSIONS ON MARINE POLLUTION THIS WEEK
MOVED RELATIVELY SLOWLY. HOWEVER, CHAIRMAN OF COMMITTEE SESSIONS
ON POLLUTION PLANS TO SET UP A SMALL GROUP EARLY NEXT WEEK TO
NEGOTIATE ON EXISTING SEABED COMMITTEE TEXTS AND AMENDMENTS

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PAGE 01 CARACA 07083 03 OF 03 291204Z

53

ACTION DLOS-07

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C O N F I D E N T I A L SECTION 3 OF 3 CARACAS 7083

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PROPOSED. US HAS WIDELY DISTRIBUTED ANONYMOUS TEXT ON THESE
ARTICLES IN HOPE IT CAN FACILITATE WIDE AGREEMENT ON RELATIVE
NONCONTROVERSIAL ISSUES WHILE NEGOTIATIONS PROCEED ON DIFFIC-
ULT VESSEL POLLUTION ISSUES. HOWEVER, THERE IS RENEWED LDC
EFFORT FOR LDC-ORIENTED ECONOMIC QUALIFICATION ON DUTY TO
PROTECT MARINE ENVIRONMENT. NORWAY HAS PROPOSED TO US AND A
FEW OTHERS THAT THEY SET UP A SMALL NEGOTIATING GROUP INCLUDING

REPRESENTATIVES OF ALL MAJOR INTERESTS IN THE CONFERENCE TO TRY TO NARROW ALTERNATIVES. US ALSO HAD PRIVATE CONVERSATIONS WITH CANADA IN ATTEMPT TO ASCERTAIN REAL CANADIAN NEEDS IN POLLUTION CONTROL.

B. AS REPORTED IN UNCLASSIFIED TEL US AMONG OTHERS MADE STATEMENT ON SCIENTIFIC RESEARCH. IN ADDITION TO COASTAL STATE CONCERNS ON SECURITY, COMMERCIAL, OR MILITARY-RELATED ACTIVITIES, CONFIDENTIAL

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PAGE 02 CARACA 07083 03 OF 03 291204Z

IT ALSO APPARENT THAT CONSENT QUESTION IS AN INTEGRAL PART OF CURRENT DEBATE OVER NATURE OF COASTAL STATE JURISDICTION WITHIN ECONOMIC ZONE.

6. DISPUTE SETTLEMENT. US AND OTHER STATES FROM ALL REGIONS INTERESTED IN PROMOTING COMPULSORY DISPUTE SETTLEMENT PLANNING TO MEET NEXT MONDAY. INTERESTINGLY, SOVIETS HAVE EXPRESSED DESIRE TO PARTICIPATE, BUT IT IS UNCLEAR HOW FAR BEYOND FISHERIES THEIR INTEREST IN COMPULSORY DISPUTE SETTLEMENT EXTENDS. UK VICTORY IN INCELAND CASE IN ICJ MAY HAVE ADVERSE PSYCHOLOGICAL EFFECT ON DISPUTE SETTLEMENT, AND SOME (E.G. BRAZIL) SEEM TO BE PREPARING TO EXPLOIT THIS.

7. DECLARATION OF CARACAS. THERE IS INCREASING CORRIDOR TALK OF CONCLUDING SESSION WITH A DECLARATION. WE OPPOSED SUCH ATTENTION TO GENERAL PRINCIPLES RATHER THAN TO SPECIFIC TEXTS IN OUR PLENARY SPEECH, AS IT COULD BE PREJUDICIAL TO FURTHER TREATY NEGOTIATIONS. IT IS UNCLEAR WHO IS STIMULATING THIS.

8. COMMENT: WITH FIVE WEEKS REMAINING OF CONFERENCE IT IS EVIDENT THAT UNLESS THERE IS A SUBSTANTIAL CHANGE IN CURRENT PATTERN THERE WILL BE ONLY LIMITED PROGRESS ON SUBSTANCE AT THIS SESSION, THUS THROWING INTO QUESTION UN TIMETABLE FOR COMPLETION OF TREATY. MALAISE APPEARS TO STEM FROM COMBINATION OF LACK OF CONFIDENCE OF MANY DELEGATIONS IN ADEQUACY OF THEIR KNOWLEDGE AND IN SOME CASES OF THEIR AUTHORITY TO MAKE BINDING DECISIONS, AND EXPLOITATION OF THESE UNCERTAINTIES BY EXTREMISTS WHO PREFER TO SEE NO AGREEMENT.
STEVENSON

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